IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11337 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRANBHUDAS TULSIDAS BAVAJI

Versus

STATE OF GUJARAT

Appearance:

MS DR KACHHAVAH for Petitioner

Mr S P Dave, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 20/04/2001

ORAL JUDGEMENT

The petitioner above named, has preferred this petition under Article 226 of the Constitution of India. In fact, the letter of request received from the petitioner-original detenu dated 1.11.2000 through jail

has been treated as Special Civil Application.

2. Rule was issued. Mr S P Dave, learned AGP appears on behalf of the respondents no.1,2 and 3. Ms. D R Kachhavah, learned Advocate appears for the petitioner. She submits that copies of statements received by the petitioner were not legible and, therefore, the petitioner was deprived of his valuable right of making representation against the detention. She has specifically referred to a statement of witness shown as witness no.1, whose name has not been disclosed in the papers. The statement appears to have been recorded on 28.8.2000 at page 73 in the bunch of papers. It appears that the bottom portion of that statement is not legible and some efforts are required to be made for finding out as to what has actually been written in the bottom portion of page no.73. In other words, that part of the statement is not clearly legible. Almost similar is the case with respect to statement of witness no.2 whose name also has not been disclosed, which was recorded on 28.8.2000 and it has been placed at page 75 in the bunch of papers. Even there also the bottom portion is not very clearly legible. This means that the detaining authority has not supplied legible copies of relevant and important documents relied upon by the detaining authority for the purpose of passing the detention order in the present case. I am of the opinion that supply of illegible documents amounts to non-supply of copies of documents relied upon by the detaining authority. When eligible documents are not supplied to the petitioner, then he would be deprived of his valuable right of making representation against the detention. In the present case also, the present petitioner has been deprived of his right of making effective representation against the detention. On this aspect of the case, we have got a decision of this Court (Coram: B C Patel, J.) in Special Civil Application no.618/99 dated 3.3.2000. In para 3 of the said judgment reads as follows:

> "Without addressing about legality of the grounds of detention, the learned Advocate for the petitioner submitted that the petition is required to be disposed of on a short ground as the papers supplied to the detenu are not legible. In view of this, the detenu is deprived from making effective representation. He further stated that all the papers are not illegible but some papers are illegible and as a result of which, his right has been adversely affected. Mr Patel, learned AGP after going through the papers, is not in a position to state that all

> the papers are legible, but some of the papers are illegible. Suffice it to say that same has deprived the detenu from making effective representation and hence the detention order requires to be quashed and set aside. The detention order passed against the detenu is hereby quashed and set aside. The detenu shall be released forthwith if he is not required in any other case. The petition is allowed. Rule is made absolute".

3. In view of the aforesaid, I am of the view that the present petitioner has been deprived of his valuable right of making representation against his detention. Under the aforesaid circumstance, the order of detention cannot be sustained and further detention of the petitioner cannot be upheld.

4. This Special Civil Application is allowed. The impugned order of detention dated 1.9.2000 passed by the Police Commissioner, Rajkot is hereby quashed and set aside. The detenu shall be released forthwith, if he is not required in any other case. Rule is made absolute.

20.4.2000 [D P Buch, J.]
msp